IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

Bail Appl..No. 7206 of 2006()

AGAINST THE ORDER IN BA.6478/2006 Dated 10/11/2006
Crime No.284/02 of Kondotty Police Station

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PETITIONER :

V.B. MOHAMMED KUTTY, S/O. BAPPU,
AGED 49 YEARS, RESIDING AT VATTAPARAMBIL HOUSE,
P.O. KADANGODU, VIA. KUNNAMKULAM, THRISSUR DIST.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE,
KONDOTTY POLICE STATION, KONDOTTY,MALAPPURAM DIST.

BY DIRECTOR GENERAL OF PROSECUTIONS SHRI. P.G. THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.Ramkumar, J.

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B.A.No.7206 of 2006

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Dated this the 10th day of January, 2007.

ORDER

Petitioner, who is the fourth accused in Crime No.284 of 2002 of Kondotty Police Station for offences punishable under Section 120B, 384 and 420 read with Section 34 I.P.C., seeks anticipatory bail.

2. The case of the prosecution is that accused Nos. 1 and 2 conspiring with the other accused had put the de facto complainant under fear of threat that he would be implicated in a COFEPOSA case and thereby dishonestly induced him to part with and extracted a sum of Rs.35,50,000/- and the said amount was shared between accused Nos. 1 to 5. The case was originated on a private complaint in which initially there were only two accused, namely, accused Nos. 1 and 2. After the commencement of the investigation, the complicity of accused Nos. 3 to 5 is also said to have been revealed and they were arrayed as such in the year 2002 itself. It is not disputed that the remaining accused, namely, accused Nos. 1 to 3 and 5 have been enlarged on bail.

3. Shri. P.G. Thampi, the learned Director General of Prosecutions opposed the application submitting inter alia that this is

the third application for anticipatory bail filed by the petitioner before this Court and that the petitioner, who has never been interrogated by the Investigating Agency in this case cannot be granted anticipatory bail. He, however, submitted that the investigation of the case is virtually over and what remains is only the obtaining of sanction for prosecution in the case of the third accused, who is a public servant working as Superintendent of Customs.

4. It is true that two of the earlier applications for anticipatory bail filed by the petitioner were dismissed by this Court. Since the invesgigation of the case has virtually reached a culmination, I do not think that the prosecution should stand on the technicality of opposing the application for the sole reason that this is the third application. At the same time, the interrogation of the petitioner is a prerogative which cannot be denied to the investigating agency. Accordingly, I am inclined to give the petitioner an opportunity to surrender before the Investigating Officer for the purpose of interrogation and then to have his application for regular bail disposed of by the Magistrate having jurisdiction. The petitioner shall, therefore surrender before the Investigating Officer any day between 20.1.2007 and 24.1.2007 for the purpose of interrogation and recovery of incriminating material, if any. The petitioner shall thereafter be produced before the Magistrate

having jurisdiction, who shall dispose of the application for regular bail,if any, filed by the petitioner preferably on the same date on which it is filed.

With this direction, this application is disposed of.

V.Ramkumar,
Judge.

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